



CALIFORNIA

# Technician/AGR Administrative Instruction

National Guard Technicians - CAL NG Active Guard/Reserve

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MILITARY DEPARTMENT

P. O. BOX 269101  
Sacramento, CA 95826-9101

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NUMBER

03-07

28 March 03

NO EXPIRATION DATE

## UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (USERRA) FOR INDEFINITE AND TEMPORARY TECHNICIANS

1. Public Law 103-353, Uniformed Services Employment and Reemployment Rights Act (USERRA), amended title 38, United States Code to improve and protect reemployment rights and benefits of certain members of the uniformed services. There is some confusion as to the reemployment rights of indefinite and temporary technicians under USERRA.

2. Clarification of indefinite and temporary technician reemployment rights are as follows:

Positions that are held for a brief, nonrecurrent period with no reasonable expectation that the employment will continue indefinitely or for a significant period, do not qualify for reemployment protection.

3. **Indefinite technicians** are eligible for reemployment if they comply with the time limits (depending on the length of uniformed services) for requesting reemployment. If the position or project they were hired for has been completed and there is no other position, indefinite technicians will be instructed to contact Office of Personnel Management for reemployment.

4. **Temporary technicians** called to active duty:

a. If active duty orders **extend beyond** the not to exceed date (NTE) of their technician appointment, the technician will be terminated with no reemployment rights.

**EXAMPLE:** John Smith's temporary appointment has a NTE date of 30 Sep 03. His active duty orders are effective 17 Mar 03 for 1 year. Since he will not return before the expiration of his temporary appointment, he will be terminated (no reemployment rights).

b. If a temporary technician is placed on active duty orders and the orders **do not exceed** the NTE date with an expectation that the employment will continue, a temporary employee may return to complete the remainder of his/her appointment. Examples of these scenarios are; to attend a school, i.e., military academies, AFSC/MOS awarding schools, professional military education. It is at the supervisor's discretion to terminate the appointment or approve leave without pay (LWOP-US).

**EXAMPLE:** John Smith is placed on active duty orders to attend an AFSC/MOS awarding school for 30 days. The effective date of his orders are 16 Mar 03. His temporary appointment terminates on 30 Sep 03. When he returns from school, with the approval of his supervisor, he may serve the remainder of his appointment NTE date of 30 Sep 03.

5. If you have any questions, contact Nancy Hamilton, Employee Relations Specialist, at CAGNET 63411, DSN 466-3411, or (916) 854-3411.

FOR THE ADJUTANT GENERAL:

  
STUART D. EWING  
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